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SEP 22 2004

In re Application of	:	OFFICE OF PETITIONS
Gomes et al.	:	
Application No. 10/807,032	:	DECISION REFUSING STATUS
Filed: March 23, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 066470-011	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 6, 2004 (certificate of mailing dated August 3, 2004).

The petition is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 23, 2004, without an executed oath or declaration. Accordingly, on June 4, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration and a surcharge for its late filing.

In response, on August 6, 2004 (certificate of mailing dated August 3, 2004), applicants filed the present petition, a declaration signed by three of the four joint inventors, and paid the necessary fees.

In the Affidavit of Patrice Jeffries, she stated that Mr. Mishra failed to respond to two written requests to execute the declaration. Ms. Jeffries further stated that on July 8, 2003,

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she sent Mr. Mishra a letter and the "patent document," and requested his signature. Ms. Jeffries asserts that Mr. Mishra did not respond to the requests.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack items (1) and (2) as set forth above.

As to item (1), Ms. Jeffries states that a "patent document" was mailed to the nonsigning inventor. It is unclear from the record whether Mr. Mishra was presented with the complete application papers. Unless Mr. Mishra was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to Mr. Mishra, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the country of citizenship, mailing address and residence of inventor Mishra. The Office notes that the oath or declaration must identify the country of citizenship of each inventor. See 37 CFR 1.63(a)(3). Additionally, the declaration must identify "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1).

Accordingly, to correct the deficiencies, applicants must submit a declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity and the correct mailing address and citizenship of each inventor and is signed by the signing inventors on behalf of the nonsigning inventors, Mr. Mishra.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Commissioner for Patents
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 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

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 Crystal Plaza Two, Lobby, Room 1B03
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Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589 (after September 27, 2004 (571) 272-3211).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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